

client or the circumstances, the amount involved and the results obtained, the experience, reputation, and ability of the attorney, the undesirability of the case, the nature and length of the professional relationship with the client, and the awards in similar cases.

### **Subpart C—Processing Class Complaints of Discrimination**

#### **§ 1225.12 Precomplaint procedure.**

An applicant, trainee or Volunteer who believes that he or she is among a group of present or former Peace Corps or ACTION Volunteers, trainees, or applicants for volunteer service who have been illegally discriminated against and who wants to be an agent for the class shall follow those precomplaint procedures outlined in § 1225.8 of this part.

#### **§ 1225.13 Acceptance, rejection or cancellation of complaint.**

(a) Upon receipt of a class complaint, the Counselor's report, and any other information pertaining to timeliness or other relevant circumstances related to the complaint, the EO Director shall review the file to determine whether to accept or reject the complaint, or a portion thereof, for any of the following reasons:

- (1) It was not timely filed;
- (2) It consists of an allegation which is identical to an allegation contained in a previous complaint filed on behalf of the same class which is pending in the agency or which has been resolved or decided by the agency;
- (3) It is not within the purview of this subpart;
- (4) The agent failed to consult a Counselor in a timely manner;
- (5) It lacks specificity and detail;
- (6) It was not submitted in writing or was not signed by the agent;
- (7) It does not meet the following prerequisites.
  - (i) The class is so numerous that a consolidated complaint of the members of the class is impractical;
  - (ii) There are questions of fact common to the class;
  - (iii) The claims of the agent of the class are representative of the claims of the class;

(iv) The agent of the class, or his or her representative will fairly and adequately protect the interest of the class.

(b) If an allegation is not included in the Counselor's report, the EO Director shall afford the agent 15 calendar days to explain whether the matter was discussed and if not, why he or she did not discuss the allegation with the Counselor. If the explanation is not satisfactory, the EO Director may decide to reject the allegation. If the explanation is satisfactory, the EO Director may require further counseling of the agent.

(c) If an allegation lacks specificity and detail, or if it was not submitted in writing or not signed by the agent, the EO Director shall afford the agent 30 days from his or her receipt of notification of the complaint defects to resubmit an amended complaint. The EO Director may decide that the agency reject the complaint if the agent fails to provide such information within the specified time period. If the information provided contains new allegations outside the scope of the complaint, the EO Director must advise the agent how to proceed on an individual or class basis concerning these allegations.

(d) The EO Director may extend the time limits for filing a complaint and for consulting with a Counselor when the agent, or his or her representative, shows that he or she was not notified of the prescribed time limits and was not otherwise aware of them or that he or she was prevented by circumstances beyond his or her control from acting within the time limit.

(e) When appropriate, the EO Director may determine that a class be divided into subclasses and that each subclass be treated as a class, and the provisions of this section then shall be construed and applied accordingly.

(f) The EO Director may cancel a complaint after it has been accepted because of failure of the agent to prosecute the complaint. This action may be taken only after:

- (1) The EO Director has provided the agent a written request, including notice of proposed cancellation, that he or she provide certain information or otherwise proceed with the complaint; and

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(2) Within 30 days of his or her receipt of the request.

(g) An agent must be informed by the EO Director in a request under paragraph (b) or (c) of this section that his or her complaint may be rejected if the information is not provided.

#### **§ 1225.14 Consolidation of complaints.**

The EO Director may consolidate the complaint if it involves the same or sufficiently similar allegations as those contained in a previous complaint filed on behalf of the same class which is pending in the agency or which has been resolved or decided by the agency.

#### **§ 1225.15 Notification and opting out.**

(a) Upon acceptance of a class complaint, the agency, within 30 calendar days, shall use reasonable means, such as delivery, mailing, distribution, or posting, to notify all class members of the existence of the class complaint.

(b) A notice shall contain:

(1) The name of the agency or organizational segment thereof, its location and the date of acceptance of the complaint;

(2) A description of the issues accepted as part of the class complaint;

(3) An explanation that class members may remove themselves from the class by notifying the agency within 30 calendar days after issuance of the notice; and

(4) An explanation of the binding nature of the final decision or resolution of the complaint.

#### **§ 1225.16 Investigation and adjustment of complaint.**

The complaint shall be processed promptly after it has been accepted. Once a class complaint has been accepted, the procedure outlined in § 1225.9 of this part shall apply.

#### **§ 1225.17 Agency decision.**

(a) If an adjustment of the complaint cannot be made the procedures outlined in § 1225.9 shall be followed by the EO Director except that any notice required to be sent to the aggrieved party shall be sent to the agent of the class or his or her representative.

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(b) The Final Agency Decision on a class complaint shall be binding on all members of the class.

#### **§ 1225.18 Notification of class members of decision.**

Class members shall be notified by the agency of the final agency decision and corrective action, if any, using at the minimum, the same media employed to give notice of the existence of the class complaint. The notice, where appropriate, shall include information concerning the rights of class members to seek individual relief and of the procedures to be followed. Notice shall be given by the agency within ten (10) calendar days of the transmittal of its decision to the agent.

#### **§ 1225.19 Corrective action.**

(a) When discrimination is found, Peace Corps or ACTION must take appropriate action to eliminate or modify the policy or practice out of which such discrimination arose, and provide individual corrective action to the agent and other class members in accordance with § 1225.10 of this part.

(b) When discrimination is found and a class member believes that but for that discrimination he or she would have been accepted as a Volunteer or received some other volunteer service benefit, the class member may file a written claim with the EO Director within thirty (30) calendar days of notification by the agency of its decision.

(c) The claim must include a specific, detailed statement showing that the claimant is a class member who was affected by an action or matter resulting from the discriminatory policy or practice which arose not more than 30 days preceding the filing of the class complaint.

(d) The agency shall attempt to resolve the claim within sixty (60) calendar days after the date the claim was postmarked, or, in the absence of a postmark, within sixty (60) calendar days after the date it was received by the EO Director.

#### **§ 1225.20 Claim appeals.**

(a) If the EO Director and claimant do not agree that the claimant is a member of the class, or upon the relief to which the claimant is entitled, the